

“Credit Cooperatives societies, particularly in the Autonomous Community of Extremadura”

TOPIC

(5) Autonomy or articulation

AUTORS

Isaac Merino Jara
Catedrático de Derecho Financiero y Tributario UPV/EHU
Elena Manzano Silva
Doctora. Profesora de Derecho Financiero y Tributario
Universidad de Extremadura

ABSTRACT

Credit Cooperative Societies serve the financial needs of its members and third parties, through the exercise of the activities of credit institutions. In the Autonomous Community of Extremadura, Law 5 / 2001, dated May 10, Credit Cooperatives, provides special rules to them in order to promote and encourage savings and regionalization of economic and social development. As a Credit Institutions implementing them is an autonomous own tax, the Tax on Deposits of Credit Institutions, which provides certain tax benefits that reducing the financial burden to be borne by this concept and this recognize how social marking the banking cooperative.

I. Introduction

The financial system of our country, consists of a set of institutions, media and markets, whose main objective is to channel savings generated by the surplus spending units to the units of deficit spending (Seguí Mas, 2007, p. 125).

Financial actors that compose it can be structured into three levels, based on the content of their functions: the first, lie the policy making bodies such as the Government and specifically the Ministry of Economy and Finance, in second, are the executive, as the *Banco de España*, the *Comisión Nacional del Mercado de Valores* and the *Dirección General de Seguros*, and the third level, financial actors themselves.

The latter, can in turn be grouped according to the executive organ of that jurisdiction. In the area of the *Banco de España*, are the credit and deposit institutions such as Banks, Savings Banks and Credit Cooperatives, along with other entities for funding certain property (Financial buying cars and other goods consumer durable, leasing companies, companies specializing in mortgage credit, or issuance and card management and the provision of guarantees) as well as mutual guarantee companies and the *Instituto de Crédito Oficial*. Besides those listed, but in this case under the supervision of the *Dirección General de Seguros*, are managing insurance companies and pension funds (Vilariño Sanz, 2001, pp. 8-10).

Of those, there is no doubt that the main players in the financial system of our country are the Banks, Savings Banks and Credit Cooperatives, whose implementation and expansion has evolved as provided in the table below¹.

	Número de entidades											
	Total 1=2+8+ 11+12	Bancos, Cajas y Cooperativas						EFC/ECAOL			Crédito oficial 11	Entidad de dine- ro elec- trónico (EDE) 12
		Total 2=3+6+7	Bancos residentes			Cajas de ahorro 6	Coopera- tivas de crédito 7	Total 8=9+10	Estable- cimientos financie- ros de crédito (EFC) 9	ECAOL 10		
			Total 3=4+5	4 Socieda- des anó- nimas es pañolas	5 Sucursales de socie- dades ex- trañas							
97	416	307	159	105	54	51	97	108	108	-	1	-
98	404	300	152	99	53	51	97	103	103	-	1	-
99	387	290	146	93	53	50	94	96	96	-	1	-
00	368	281	141	89	52	48	92	86	86	-	1	-
01	367	281	145	89	56	47	89	85	85	-	1	-
02	359	275	143	84	59	47	85	83	83	-	1	-
03	348	269	138	80	58	47	84	78	78	-	1	-
04	346	266	136	75	61	47	83	79	79	-	1	-
05	348	269	139	74	65	47	83	78	78	-	1	-
06	352	272	142	72	70	47	83	79	79	-	1	-
07	357	280	151	72	79	46	83	76	76	-	1	-
08	362	286	159	71	88	46	81	75	75	-	1	-
08 //	363	285	158	72	86	46	81	77	77	-	1	-
08 ///	363	285	158	72	86	46	81	77	77	-	1	-
08 IV	362	286	159	71	88	46	81	75	75	-	1	-
09 I	358	281	154	68	86	46	81	75	75	-	1	1
09 II	357	281	154	67	87	46	81	74	74	-	1	1
09 III	352	280	153	66	87	46	81	70	70	-	1	1
09 IV	352	280	153	65	88	46	81	70	70	-	1	1
10 I	348	281	154	66	88	46	81	65	65	-	1	1

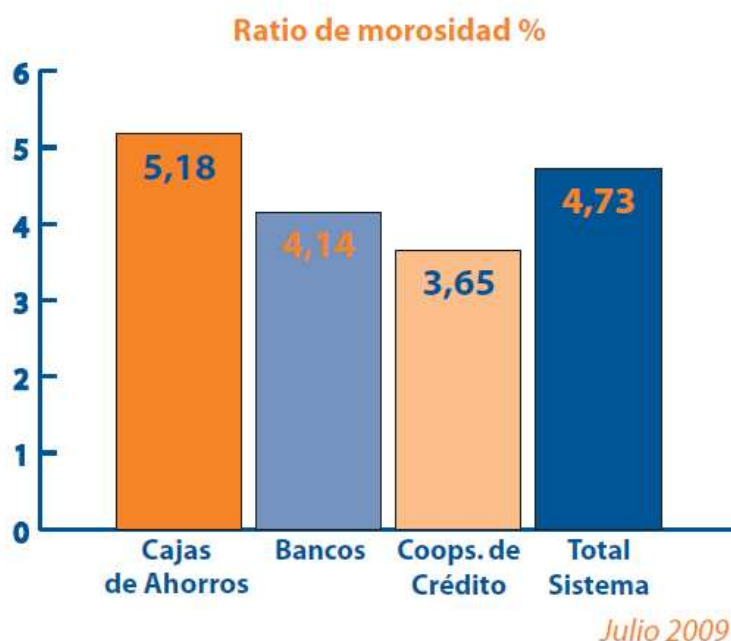
As you can see, the graph shows a decrease in the number of financial institutions operating in our country in recent years, a reduction which, as is known, mainly from the financial crisis began in the summer of 2007.

Two years later, in late June 2009, these entities had offices in the country 45.137, a figure that compared to the previous year shows that in just 12 months were closed a total of 903 branches, so that only in the second quarter, the number of branches fell by 552².

The economic slowdown, rising unemployment, declining confidence levels and the closure of financial markets, have led to an increase in delinquencies of customers into the banks and an increase in its funding difficulties, such as reflected below:

¹ Published by the *Banco de España* and available on the official web of the institution www.bde.es.

² Data published by the *Banco de España* and available in www.bde.es.



These figures so little encouraging, Credit Cooperatives have very positive ratios both in its expansion, since in 2009 were the only ones that increased their number of branches with more than 62 facilities in 2008, and in their levels of delinquency, to be structured credit granted by them as follows³:

Millones de euros

	Total 11+12 1=2+3+	Financiación de actividades productivas (b) 2	Otras financiaciones a hogares por funciones de gasto								ISFLSH 11	Sin clasificar 12	Promemoria Con garan. hipotec. no adquis. vivienda (d) 13
			Total 3=4+9+10	Adquisición y rehabilitación de viviendas					Bienes de consumo duradero 9	Resto (c) 10			
				Total 4=5+8	Adquisición de vivienda			Rehabilitación 8					
					Total 5=6+7	Con gar. hipotec. 6	Resto 7						
02	35 665	15 192	18 242	12 933	11 978	11 020	959	955	632	4 676	88	2 044	...
03	41 770	15 858	22 457	15 333	14 386	13 483	903	947	577	6 547	112	3 343	...
04	49 359	18 940	27 001	17 646	16 489	15 494	994	1 158	647	8 707	162	3 257	...
05	64 424	26 294	35 161	27 030	25 496	24 338	1 159	1 533	731	7 401	195	2 774	2 419
06	77 902	33 565	42 129	33 912	32 038	30 660	1 378	1 873	776	7 441	211	1 996	2 755
06 III	74 162	31 269	40 405	32 259	30 455	29 112	1 344	1 804	771	7 375	195	2 294	2 501
06 IV	77 902	33 565	42 129	33 912	32 038	30 660	1 378	1 873	776	7 441	211	1 996	2 755
07 I	80 771	34 774	43 734	35 372	33 447	32 025	1 422	1 925	784	7 578	219	2 044	2 846
07 II	84 751	36 733	45 641	37 035	34 969	33 599	1 370	2 066	800	7 807	224	2 153	2 975
07 III	87 391	39 298	46 429	38 289	36 161	34 707	1 454	2 127	796	7 344	239	1 425	2 972
07 IV	90 759	41 304	47 663	39 433	37 241	35 785	1 456	2 192	797	7 434	252	1 540	3 066
08 I	91 783	41 656	48 327	39 566	37 341	35 862	1 479	2 225	774	7 986	260	1 540	3 222
08 II	94 088	42 555	49 592	40 771	38 490	37 072	1 417	2 281	765	8 056	276	1 666	3 330
08 III	95 037	43 151	50 134	41 497	39 185	37 805	1 379	2 312	751	7 886	295	1 458	3 364
08 IV	95 662	43 756	50 303	41 986	39 646	38 272	1 374	2 340	864	7 453	307	1 296	3 292
09 I	95 694	43 117	50 190	42 317	39 936	38 619	1 317	2 381	835	7 038	304	2 083	3 242
09 II	96 158	41 233	51 876	42 728	39 218	37 917	1 301	3 510	1 176	7 973	323	2 726	4 338
09 III	96 192	41 369	52 165	43 103	39 599	38 324	1 275	3 504	1 146	7 917	323	2 335	4 453
09 IV	96 559	41 385	52 614	43 476	39 972	38 711	1 261	3 504	1 115	8 023	315	2 245	3 775
10 I	96 465	41 339	52 720	43 508	40 010	38 745	1 265	3 498	1 204	8 008	285	2 121	3 761

Data such as those indicated, justify the necessary protection and promotion of such entities by government than by offering a special regulation that singled from the

³ Data published by the *Banco de España* and available in *www.bde.es*.

rest of financial operators, that in the case law of the Autonomous Community of Extremadura will be examined in this article⁴.

II. Legal regime of Credit Cooperatives in Extremadura

Credit Cooperatives can be defined as entities whose purpose is to serve the financial needs of its members and third parties, through the exercise of the activities of credit institutions.

Traditionally, these entities have assumed as its own the commitment to contribute to regional development, even without specific policy instruments that will defend effort outside the general rules contained in the Law 2 / 1998 of March 26, Cooperative Societies of Extremadura.

This deficiency is supplied with the enactment of Law 5 / 2001 of May 10, Credit Cooperatives, through which public authorities such Extremadura deserved special treatment granted to a unique cooperative societies with the aim of promoting and encouraging regionalization savings, economic and social development of Extremadura, in order to share in the wealth that the activity of these lending institutions generate⁵.

Thus, the *Junta de Extremadura*, through the *Consejería de Economía, Comercio e Innovación*, took the guardianship of such cooperatives in accordance with the following principles:

- a. Ensure the development and operation of Credit Cooperatives.
- b. Ensure that Credit Cooperatives comply with the rules affecting them and to have sound administrative and accounting procedures and internal control suitable and effective.
- c. Guard that Credit Cooperatives comply with the rules of order and discipline.
- d. Protect and defend the independence, prestige and stability of Credit Cooperatives.
- e. Ensure that the criteria of transparency, democratization and efficiency are present in the configuration and operation of the governing organs of Credit Cooperatives.
- f. Encourage the legitimate actions of the Credit Cooperatives to improve the socioeconomic status of the Autonomous Community of Extremadura.

According to the referred objectives, regulating the establishment, merger, division, dissolution and liquidation of the cooperative mode, can those whose principal corporate purpose is the provision of financial services in rural Extremadura used together or separately with the name of Credit Cooperative, the expression “*Caja Rural*”.

⁴ Spanish Autonomous Communities have the power to regulate its own rules on cooperative societies, if regional parliament does not adopt the Law, will result of application the state regulation, which for this type of Cooperatives is the Law 13/1989, of 26 May, Credit Unions.

⁵ Vide the Preamble of the Law.

The application for constitution must be formalized before the *Consejería de Economía, Comercio e Innovación* who will raise its report to the *Consejería de Administración Pública y Hacienda*, who shall be responsible for deciding on its approval. Credit Cooperative must be signed by a group of promoters to be part, at least 10 legal persons to develop their own activity object steadily since at least two years before the date of incorporation, or 100 individuals. If the aim is to establish a Credit Cooperative under the name “Caja Rural”, the promoter group shall include at least three partners Agricultural Cooperatives or 150 individual owners of farms.

This application must be accompanied, among others, the following documents:

- a. Draft Laws, which should be favorable report from the *Consejería de Economía, Comercio e Innovación*.
- b. Certification denial that does not match the name of an existing.
- c. Programme of activities, which shall state specifically the kind of operations that are to be carried out and the structure of the organization of the institution and the linkage of those operations to the financial needs of members.
- d. List of members who will form the company, along with their respective capital contributions.
- e. List of persons who are part of the first Governing Council and those who will act as Directors-General.
- f. Justification of the lodging, in cash or government securities, the deposit required.

Among the requirements to obtain and maintain approval as a Credit Cooperative is the need to take the form of a cooperative and have a minimum paid-up capital, the statutory obligation to limit the objects to the activities of a Credit Cooperative; have sound administrative and accounting procedures and adequate and appropriate internal controls; not book promoters, founders or initial partners, advantage or special compensation of any kind and have formed a Governing Council, at least five members, two of whom may be non-members. Besides those listed, will also be required to obtain authorization as a Credit Cooperative that none of the Counselors and Directors General of it is processed by any of the cases stated in Article 50 of the Law⁶.

⁶ In the recording the following causes of incapacity and incompatibility, which provides that may not be members of the Governing Council:

- a. The bankrupt or insolvent not rehabilitated, the legally incapacitated, the sentences which shall include the disqualification for public office, who had been convicted for serious breach of the laws or social legislation, especially crimes against property, and disqualified for the post of Director of a credit institution for disciplinary action.
- b. Directors, managers or senior executives of other credit institutions, except those participating in the capital.
- c. Those who belong to Boards of Directors of more than four credit institutions, not to the extent of the posts held only on boards of directors of credit institutions in which the applicant, his spouse, ascendants or descendants, together or separately, are owners a number of shares not less than the quotient of dividing the equity by the number of members of the Board of Directors.
- d. Those who, for themselves or on behalf of other persons or entities remain due and payable debts of any kind with the entity, or during his tenure breached its obligations to the Cooperative.

It is understood, these effects, which are debts due and payable those which are unpaid for a period exceeding ninety days of its fallen due or otherwise, from the first request for reimbursement which makes the entity.

All members of a Credit Cooperative must have at least a bachelor nominative contribution, so that the total amount of the contributions of each member shall not exceed 20% stake in the case of a legal person and 2,5% in the case of an individual. In any case the set of legal persons not having the status of cooperative society may hold more than 50% of the capital.

Regarding the performance of its business, to clarify that Credit Cooperatives can do all kinds Extremadura active operations, passive and service typical of credit institutions, giving preference the financial needs of its partners.

To do this, all active operations with third parties may not reach 50% of the total resources of the Institution. The mutual nature characteristic of Spanish Credit Cooperatives has eased considerably since the decade of the sixties of last century to today, were once clearly mutual, as because only members could receive credits and, although they could attract deposits non-members, in practice, depositors and the beneficiaries of the loans were the mimes now, as has been said, has eased the transactions with third parties (Gadea, Sacristan and Vargas Vasserot, 2009, p. 462).

In that percentage is not calculated the operations performed by Credit Cooperatives with members of Cooperatives associates, placement of excess liquidity in the interbank market, or the acquisition of securities and fixed income financial assets, which could be purchased to cover the legal factors or the placement of excess cash.

However, the *Consejería de Economía, Comercio e Innovación* of the Junta de Extremadura, after consulting the Bank of Spain, may authorize the extension of the limits stated, with regard to credit transactions that credit unions can do with others, during the prescribed waiting period, when exceptional circumstances beyond the Credit Union, its performance within this limit results in a reduction of economic activity of the entity that threatens its viability.

To ensure its proper functioning, establishing the obligation for Credit Cooperatives -that having or not its registered office in Extremadura, have branches in the autonomous region-, refer to the *Consejería de Economía, Comercio e Innovación*, any information on its activity and management, always respecting the legitimate interests of active and passive customers of these entities.

To this end, each year shall write a report explaining its activity in which you realize the outcome of each fiscal year. This result is determined according to the criteria and methods for other credit institutions, integrating operations from third parties and any gains or atypical results of all kinds, not being regarded as costs or operating costs thereof any kind of reward partners for their contributions to social capital.

e. Senior officials referred to the Law 5 / 1985 of 3 June, the Assembly of Extremadura, about incompatibilities.

f. Senior officials and others to serve the government in charge of functions that relate to the activities of the Cooperative.

g. Active employees of other financial intermediaries, as provided in the Law.

The net financial surplus resulting from the difference between the credit balance of the income and losses that arise, will be reduced by taxes payable and interest paid to capital, to thus obtain the surplus available to be allocated 20% to the *Fondo de Reserva Obligatorio* and a minimum of 15%⁷ *Fondo de Educación y Promoción*⁸. The rest of the surplus available will be distributed by the General Assembly in the manner it sees fit, all without prejudice to compliance with the solvency ratio and the provisions applicable to the first three years of existence of a credit union established in the regulations valid state.

The *Fondo de Reserva Obligatorio* and the *Fondo de Educación y Promoción* are one of the major powers in the functioning of cooperative societies, so much so that they cannot divide their endowments between partners, even in the event of liquidation of the cooperative.

The rationale for the *Fondo de Reserva Obligatorio* agrees with that justifies the existence of a legal reserve in other societies, which is the capital strengthening of the cooperative, its consolidation, development and security. It is an obligation which the law traditionally requires the cooperative nature of their particular company with variable capital and to provide it with more credibility and security against third parties (Crespo Miegimolle, 1999, p. 164).

The component parts do not belong to anyone in particular, are not subject to redistribution, a characteristic that Morillas Jarillo and Feliú Rey explained “by pursuing social projection Cooperative societies: the collective heritage is intended to give effect to the principle of solidarity among its current and future partners, or with respect to persons outside the cooperative that are experiencing the same needs, because, if it comes to dissolve the cooperative, the balance of the Fund is to promote cooperative” (2002, p. 439) .

Unlike the *Fondo de Reserva Obligatorio*, the purpose of the *Fondo de Educación y Promoción* is not economic, but is redirected to activities that directly affect the benefit of the community, and the achievement of general interest. Can be grouped into three categories:

A) Activities relating to the cooperative:

-The training and education of its members and workers of the cooperative principles and values, or in specific areas of corporate activity or work and other cooperative activities.

-The spread of cooperative.

⁷ This percentage drops to 10% in state law, Law 13/1989, of May 26, Credit Cooperatives.

⁸ As Romero Civera highlights “the existence of incentives for patronage, as expressed in the Law 49/2002 of taxation of non-profit organizations and the incentives for patronage, has meant that many credit cooperatives managed, as do many large companies with part of their corporate social responsibility through donations to foundations, adapted to that law, and controlled by them, for two reasons: low cost and great economic and fiscal freedom to operate in the management of Foundations, maintaining social prestige that they can bring this action, with appropriate communication and public image of these actions”. (“El Fondo de Educación y Promoción en las Cooperativas de Crédito: su gestión con o sin una fundación”, *Revista de Estudios Cooperativos. Revesco*, nº. 101, 2010, p. 60)

-The promotion of inter-Cooperatives relationships.

B) Activities relating to society:

-Training and education of members and employees in matters relating to corporate activity, employment and other related society.

-The training and education of members in business skills, economic or professional.

-The training in business management and adequate control the members of board of auditors.

C) Activities of general interest:

-The health care professional and cultural promotion of the local environment or the community at large as well as improving the quality of life and community development.

-The promotion of environmental protection actions and sustainable development.

-The achievement of objectives of social impact and combating social exclusion.

The status of indefeasible and distribution of funds described cause the maximum distributable surplus in cooperatives is less than that generated in other capital stock, thus ensuring compliance with the aforesaid purposes and compliance with values and principles that guide the operation of these entities.

The marked social character of Cooperatives, has made them worthy of a peculiar tax treatment that distinguishes it from the rest of corporations, contained in Law 20/1990 of 19 December, Taxation of Cooperatives. In its articles, there are two types of provisions: on the one hand, there are technical standards setting, which adapt the characteristics and specific social regulation of Cooperatives to the terms of tax regulations, are contained in Chapter IV of Title II and Title III, and on the other hand, incentive rules, located in Title IV, which provide tax benefits in response to the purposes they serve such companies "in terms of facilitating the access of workers to the means of production and promote the suitability and training of the partners through the provisions made for this purpose"⁹ tax figures as relevant as the Corporation Tax, Property Transfer Tax and Stamp Duty, Property Tax and the Tax on Economic Activities.

Out of the particularities of that law, taxation of cooperatives is similar, with few exceptions, to that of other entities, may apply the relevant state tax legislation, regional and local levels.

In this vein, Credit Cooperatives of Extremadura are subject to payment of a tax appears unique and specific to our region, recently introduced in another Autonomous

⁹ Vide the Preamble of the Law 20/1990 of 19 December.

Community¹⁰, which is charged with a relevant activity Entities Credit, which is raising funds through third-tax deposits of Credit Institutions.

III. Tax on Deposits of Credit Institutions

The Autonomous Community of Extremadura in exercise of the power of taxation conferred, has established different taxes all regulated by Legislative Decree 2 / 2006, dated 12 December.

The Tax on Deposits of Credit Institutions established by Law 14/2001 of November 29, is configured as a tax of directness, which taxes to raise money refunded by the credit supplied by customers involve the obligation of restitution.

Among subjects free, are the *Banco de España* and the monetary regulatory authorities, as such, the European Investment Bank and the credit sections of Cooperatives. The establishment of the latter relies on the provision contained in article 5 of the State Law 27/1999 of 16 July, Cooperative, which provides that the Cooperatives of any kind, other than credit, may have if the Statutes so provide, a credit section, no separate legal personality of the cooperative of which it forms part, limiting their lending and deposit to the cooperative and its members, subject to a return on their excess cash through financial institutions, so that the volume of credit transactions in the credit section in no case exceed 50% of own resources of the cooperative.

The Extremadura legislative decided to exclude credit sections of Cooperatives from paying this tax because of its unique nature, and this exclusion does not extend to Credit Cooperatives as such. In our region, articles 81-87 of that Law 5 / 2001 of 10 May, the Credit Unions the details governing the establishment of these sections, failing to include in their names the words “Credit Cooperative”, “Caja Rural” or similar, and the obligation of becoming a specific record, the Registry of Cooperatives with Credit Section¹¹.

Today, the challenges facing credit sections vary in response to the Autonomous Community in which situated, but claim Campos Climent and Sanchís Palacio “the two most significant and common to all of them are: the need to sign partnerships with

¹⁰ In Andalucía, has established a tax on customer deposits in credit institutions by the sixth article of the Decree-Law 4 / 2010 of 6 July, fiscal measures to reduce the deficit and for sustainability, given tax configuration, with few exceptions, virtually identical to Extremadura.

¹¹ In Extremadura, the first section of credit came in 1990. During the nineties, nine cooperatives in the province of Cáceres in the Valle del Jerte (Barrado, Cabrero, Casas del Castañar, El Torno, Malpartida de Plasencia, Navaconcejo, Piornal, Tornavacas y Valdastillas) formed a cooperative service of the second degree Cooperative Credit Extremadura, SCL Credicoex. However, the group disbanded with the collapse of a section, so that two Cooperatives signed an agreement with Credicoop de Castellón, two signed an agency agreement with Banco de Extremadura and a final signed a collaboration agreement with Caja Rural de Extremadura. (Climent Campos, V and Sanchis Palacio, JR, “Las secciones de crédito de las Cooperativas en España. Análisis de su situación actual y su papel en la financiación al cooperativismo agrario y al desarrollo rural”, *Revista de Desarrollo Rural y Cooperativismo Agrario*, núm.9, 2005, p.40.)

banks to offer financial services demanded by their partners and they need Cooperatives and legal constraints imposed mainly to their active operations” (2005, p.40). In this context it is crucial legislation favorable to the creation and consolidation of credit sections that offer the greatest potential for financial cooperatives to meet their investment needs, the tax aspect in Extremadura examined has been taken into account by the regional legislature to exempt from the payment to these sections.

Unlike credit sections, Extremadura Credit Cooperatives are taxable and not exempt from regional tax¹² on the funds raised by its headquarters and its branches are located in the territory of the autonomous community of Extremadura and may under no circumstances pass on to third parties legally share the tax to be paid for them.

The tax base is represented by the total economic value in terms of funds, calculated arithmetically averaging the ending balance of each calendar quarter of each year of the balance sheet liability item "4. Customer deposits, excluding the amounts of the entries for items of valuation adjustments (4.1.5, 4.2.5, 4.3.2 and 4.4.5), base on which it will apply the following tax scale:

Base imponible Hasta euros	Cuota íntegra Euros	Resto base imponible Hasta euros	Tipo aplicable Porcentaje
		150.000.000	0,3 %
150.000.000	450.000	600.000.000	0,4 %
600.000.000	2.250.000	en adelante	0,5 %

Share calculated in accordance with the foregoing, it is expected the implementation of the following deductions:

1) 200.000 euros when the head office and general services of the credit institution are actually located in Extremadura.

2) 5.000 euros for each branch. This amount will rise to 7.500 euros when the branch is established in municipalities with a population of law is less than 2.000 inhabitants.

They may also be deductible investments that being a public utility or social interest for the region to conclude and approve by the *Consejería de Administración Pública y Hacienda*.

The Savings Banks and Credit Cooperatives in turn can be deducted amounts for the Social Welfare in the first case, and the *Fondo de Educación y Promoción*, in the

¹² This exemption is not expected in the case of credit sections of Andalusian Cooperatives are taxable and not exempt the payment of tax on customer deposits in credit institutions, not only contemplating any exemption and provide for the following cases of non-taxable :

1. The *Banco de España* and the regulatory authorities monetary.
2. The European Investment Bank.
3. The European Central Bank.
4. The *Instituto de Crédito Oficial*.

second, effectively reversed and approved or agreed with the competent counseling financial policy.

For these purposes shall be effectively reversed those involving actual expenditure amounts for the entity that seeks to make the deduction, but may be transfers to other institutions subordinate to it, unless they, in turn, carry out the actual expenditure for the financial year concerned. Notwithstanding the foregoing, in the case of multi-year investment or move to future periods, it may, with due justification, decide to deduct the amount actually invested in the tax period or in the first period the amount of tax total committed or hired provided that in the next two years to run such investments. In the latter case, perform caucional settlement for the total price should have been rotated in the absence of the tax benefit applied, less the amounts actually invested in the first tax year.

Investments not implemented, proceed to levy tax not paid the interest on arrears, and without prejudice to the imposition of sanctions, if any, could proceed.

Applied on the share of the amount of the deductions mentioned, the result of the tax may not be negative, should be reduced to zero, the absence of the obligation to make payment.

The tax period of this tax is the calendar year unless the taxpayer has started operations in Extremadura, either through branches or through its headquarters, on a date different to the first of January, in which case run from the date of commencement activity until the end of the calendar year, at which time the accrual occurs.

Since announcing the intention to establish this tax, contrary expressed mixed reactions to its implementation that were materialized in an action of unconstitutionality by the Prime Minister on March 27, 2002 on the ground that it violated the limits set paragraphs 2 and 3 of article 6 of Organic Law 8/1980 of 22 September, Finance of the Autonomous Communities, and the principle of territoriality under article 157.2 of the Spanish Constitution and specifically, the tax matters article 139.2 of the Constitution. By *Auto* of 7 May 2002, the Second Section of the *Tribunal Constitucional* agreed to admit the appeal, and by order number 173/2002 of October 1st, 2002, lifting the suspension hanging over it, providing the regional Finance result its requirement in 2008, the amount of 424.150 euros.

Pending the trial on the constitutionality of this figure, as already noted, was considered very appropriate Andalucía its establishment, and does so in line announced by the European institutions require a tax credit for mitigating the consequences of current financial crisis and may therefore constitute a small way of extra funding for regional finances with which cover the major powers assumed.

IV. Conclusions

Currently in the pipeline are two very important rules for the economic future of our country, on the one hand, the Draft Law of Sustainable Economy, and secondly, the Draft Law on Social Economy.

The bill provides for a sustainable economy set of measures to create jobs and achieve a new economic model, with which it aims to improve the competitiveness of our country, promoting the stability of public finances, promote the innovative capacity of enterprises ; promote saving and energy efficiency with the use of clean energy, reduce emissions and improve waste management, streamlining of residential construction, extend and improve the quality of education, and promote lifelong learning and strengthening the social state .

The Draft Law on Social Economy¹³ extols the values that inspire this kind of entities operating in the economy mainly organized in the form of associations, foundations, mutual funds and cooperatives, enshrined in article 4 as follows:

“a) The primacy of the people and the social order on the capital, as embodied in self-management and transparent, democratic and participatory, involving priority to making decisions based on individuals and their contributions and services to work the entity in relation to their contributions to social capital.

b) Implementation of available surplus of economic activity primarily in terms of work and service provided by the partners and, where appropriate, the social order to the entity.

c) Promotion of international solidarity and society that encourages a commitment to local development, social cohesion and sustainability.

d) Independence from political powers. ”

The social component of these entities makes them worthy of specific legislation, with which to “establish an institutional framework conducive to the formation and registration of cooperatives fast, simple and economical, the allocation of reserves non-distributable, at least partially , and solidarity funds, control measures, to respect nature and autonomy, and facilitate the integration and partnership between the Cooperative” (García Jiménez, 2010, p. 85 and 86) also justifies the peculiar legal status and particularly fiscal and protected these societies the need for its reinforcement. A European Union level have been modest progress in the recognition and deployment of policies favorable to the social economy, progress, which, however, clash with two issues that currently occupy a central place in political and community agenda: one hand, the barriers from the politics of competition and, second, the revision of state aid policy.

For this reason, the taxes referred autonomic, and announced, should to some extent as the legislature makes Extremadura, taking into account the peculiarities which

¹³Vide Valdés Dal-Re, “La representación institucional de la economía social: una aproximación desde el derecho vigente y desde el derecho propuesto”, *CIRIEC-España, Revista de Economía Pública, Social y Cooperativa*, núm. 66, 2009, pp. 37 y ss. In particular, the distribution of powers between the State and the Autonomous Communities, Vide Gadea, Sacristan y Vargas Vasserot, *Régimen jurídico de la Sociedad Cooperativa del Siglo XXI*, ob. cit. p. 58 y ss.

apply in the Credit Cooperatives and promoting, by granting greater tax benefits, promotion and establishment, because we must not forget that “a very special asset of the Credit Cooperatives is the closest relationship with its customers and partners, and a value of proximity and participation, especially valued in hard times” (Siles Pimentel, 2009, p. 25).

Bibliography

AA.VV., 2009, *Informe para la elaboración de una Ley de Fomento de la Economía Social*, MONZON, J.L. (coordinador), CALVO ORTEGA, R, CHAVES ÁVILA, R., FAJARDO GARCÍA, I.G, Y VALDÉS DAL-RE, F, Madrid, Ciriec.

Campos Climent, V y Sanchís Palacio, J.R., 2005, “Las secciones de crédito de las Cooperativas en España. Análisis de su situación actual y su papel en la financiación al cooperativismo agrario y al desarrollo rural”, *Revista de Desarrollo Rural y Cooperativismo Agrario*, n.9.

Crespo Miegimolle, M., (ed), 1999, *Régimen fiscal de las Cooperativas*, Pamplona, Aranzadi.

Fajardo García, G., 2009, “La economía social en las leyes”, *CIRIEC-España, Revista de Economía Pública, Social y Cooperativa*, n. 66.

Gadea, E, Sacristan, F, y Vargas Vasserot, C., (eds), 2009, *Régimen jurídico de la Sociedad Cooperativa del Siglo XXI. Realidad y propuestas de reforma*, Madrid, Dykinson.

García Jiménez, M., 2010, “La necesaria armonización internacional del Derecho cooperativo: el caso español”, *Revista de Estudios Cooperativos. Revesco*, n. 102.

Morillas Jarillo, M. J y Feliú Rey, M.I., (eds.), 2002, *Curso de Cooperativas*, Madrid, Tecnos.

Pimentel Siles, M., 2009, “Entrevista”, *Banca Cooperativa*, n. 44.

Romero Civera, A., 2010, “El Fondo de Educación y Promoción en las Cooperativas de Crédito: su gestión con o sin una fundación”, *Revista de Estudios Cooperativos. Revesco*, n. 101.

Seguí Mas, E., (ed), 2007, *La gestión del capital intelectual en las entidades financieras. Caracterización del capital humano en las Cooperativas de Crédito*, Tesis Doctoral, Valencia.

Valdés Dal-Re, F., 2009, “La representación institucional de la economía social: una aproximación desde el derecho vigente y desde el derecho propuesto”, *CIRIEC-España, Revista de Economía Pública, Social y Cooperativa*, n. 66.

Vilariño Sanz, A., (ed), 2001, *Sistema financiero español*, Madrid, Akal.